

Exhibit 3

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X
DEXIA SA/NV, DEXIA HOLDINGS, INC.,
5 FSA ASSET MANAGEMENT LLC and
DEXIA CREDIT LOCAL SA,
6 ECF Case
Plaintiffs,
7 No. 12-cv-4761 (JSR)
8 VS.

9 BEAR STEARNS & CO. INC., THE
BEAR STEARNS COMPANIES, INC.,
BEAR STEARNS ASSET BACKED
10 SECURITIES I LLC, EMC MORTGAGE
LLC (f/k/a EMC MORTGAGE
11 CORPORATION), STRUCTURED ASSET
MORTGAGE INVESTMENTS II INC.,
12 J.P. MORGAN MORTGAGE ACQUISITION
CORPORATION, J.P. MORGAN
13 SECURITIES LLC (f/k/a JPMORGAN
SECURITIES INC.), WAMU ASSET
14 ACCEPTANCE CORP., WAMU CAPITAL
CORP., WAMU MORTGAGE SECURITIES
15 CORP., JPMORGAN CHASE & CO. and
JPMORGAN CHASE BANK, N.A.,
16
Defendants.

17 -----X

18
19 VIDEOTAPED DEPOSITION OF
20 JONATHAN M. PETERSON
21 Thursday, November 8, 2012
22 825 Eighth Avenue
23 New York, New York

24
25 Reported by: AYLETTE GONZALEZ, CLR
JOB NO. 55367

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2 employees.

3 Q. So, FSA Asset Management LLC, how
4 would you refer to that colloquially during
5 your time?

6 A. FSAM.

7 Q. And I'll also try to use that
8 terminology. One thing just for the
9 deposition is, just for the Court Reporter's
10 benefit, you have to make sure you let me
11 finish asking my question before you start
12 your answer. And then I will do the same
13 before I start my next question.

14 A. I will try to do that.

15 Q. Okay. What is your current job
16 title?

17 A. Associate General Counsel.

18 Q. And can you give me a brief
19 description of your educational background?

20 A. BA from University of Virginia 1983
21 and a Juris Doctor from University of Virginia
22 Law School 1986.

23 Q. And can you just briefly describe
24 for me your work history since college?

25 A. Since college or since law school?

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2 Q. Let's go from law school?

3 A. From law school, I joined the law
4 firm in New York Richards & O'Neil in 1986.
5 That firm was essentially acquired by a law
6 firm then known as Bingham Dana in 2001. I
7 stayed at Bingham Dana until 2003. It had
8 already changed its name to Bingham McCutchen
9 and then in 2003 FSA, Inc., which is what you
10 referred to as Financial Security Assurance,
11 Inc.

12 Q. Can you explain for me the various
13 positions you've held at FSA, Inc. since you
14 joined in 2003 and the basic responsibilities
15 you had in those positions?

16 A. From 2003 to some point in 2005, I
17 was Assistant General Counsel and thereafter,
18 I was Associate General Counsel. And in all
19 cases, my responsibilities were to provide
20 legal advice and services to the financial
21 products unit of the financial security
22 assurance holdings limited group.

23 I was dedicated to that group and
24 did not provide legal services to the other
25 businesses of Financial Security Assurance

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2 Holdings Limited.

3 Q. So, your role was to support the
4 financial products division under FSAH; is
5 that right?

6 A. Correct.

7 Q. And you did not support the
8 insurance arm of FSAH; is that right?

9 A. That's correct.

10 Q. And you said that your primary
11 responsibility was to provide legal support to
12 the financial product division, right?

13 A. Correct.

14 Q. Did you perform any non-legal work
15 for that entity?

16 A. I would say no. I mean, it's a --
17 you're working on a business transaction with
18 parties who have business responsibilities.
19 I'm providing legal advice. That's all in the
20 same transaction, but my role was to provide
21 legal support, legal advice.

22 Q. Are you responsible for overseeing
23 this current litigation in your current role?

24 A. Yes. Among others, yes.

25 Q. Okay. Who else is involved for

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2 overseeing the prosecution of this case?

3 A. I'm the primary legal person to
4 oversee it. In addition, the General Counsel
5 of Dexia Credit Local, New York branch is
6 Francine Marks. And the General Counsel of
7 the Dexia Group, which we refer to as Dexia SA
8 is Johan Bohets.

9 And so, collectively, we have
10 responsibilities for overseeing the
11 litigation, but I would characterize myself as
12 the primary person directly responsible.

13 Q. You're the day-to-day responsible?

14 A. Correct.

15 Q. During your role at the various
16 Dexia entities, you've worked on fairly
17 complicated transactions; is that right?

18 MR. DeLANGE: Object to the form.

19 You can answer.

20 A. Certain transactions, yes, are
21 going to be more complicated than others.

22 Q. Understood. I want to get a sense
23 of, kind of, your investment expertise or your
24 financial expertise.

25 And just at a very basic level, do

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2 MR. DeLANGE: Object to the form
3 of the question. Maybe you could
4 explain or define what you mean by
5 Dexia.

6 A. Dexia, in the U.S., did not analyze
7 investments for other parties.

8 If your question is did they
9 provide advice to third parties, that might
10 have happened in some of their -- their
11 businesses described in that earlier annual
12 report.

13 Q. My question is actually exactly as
14 I put it to you, which is: Dexia employed
15 people with expertise in making investments
16 and managing money?

17 MR. DeLANGE: Object to the form
18 of the question.

19 Q. That's correct right?

20 A. Which Dexia entity.

21 Q. Dexia SA, and all of the
22 subsidiaries?

23 A. So, of the 36,000 employees it is
24 possible, and I believe probably, that there
25 were some employees in some jurisdictions, in

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2 some subsidiaries that would qualify as a
3 financial analyst as you've just described.

4 Q. So, the best you can say is that
5 that's probable?

6 MR. DeLANGE: Object to the form
7 of the question. Argumentative. He
8 answered the question.

9 Q. They employed financial analysts,
10 right?

11 A. As I just said, it depends on the
12 subsidiary. You can't say "they" and say the
13 U.S. entities employed people who managed
14 money for other people because that's not
15 accurate, but based on the general statement,
16 yes.

17 Q. Dexia SA, through its subsidiaries,
18 also employed individuals who had experts on
19 mortgage loans, correct?

20 MR. DeLANGE: Object to the form
21 of the question.

22 A. Which aspect of mortgage loans;
23 origination, securitization, insurance?

24 Q. All of the above.

25 A. I don't know if you would consider

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2 them experts in origination, but they did
3 provide insurance for mortgage loans, which
4 included assurance of securitizations,
5 transactions of certain tranches, and in the
6 U.S.

7 Q. So, in the U.S. Dexia, through its
8 subsidiaries, actually provided hundreds of
9 billions of dollars of insurance or insurance
10 on hundreds of billions of dollars of assets;
11 is that right?

12 A. It provided insurance, I believe
13 hundreds of billions is -- if you go based on
14 the par amount is probably accurate, but, yes.

15 Q. And of that, billions of dollars of
16 residential mortgage-backed securities?

17 A. I believe the billions is probably
18 correct.

19 Q. What were Dexia's total assets as
20 of December 31, 2008; do you know?

21 A. I do not know.

22 Q. If you turn to the 2008 report at
23 page 4 and you go to the second page or -- I'm
24 sorry; not the second page, the second column
25 of page 4, and it says, "the retail and

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2 commercial banking".

3 Do you see that?

4 A. Yes.

5 Q. And the second paragraph, the
6 second sentence, it says, "Dexia Asset
7 Management had 79 billion Euros of assets
8 under management as of December 31, 2008?"

9 A. Yes, I see that.

10 Q. And then the very last sentence
11 says, "Total assets under custody amounted to
12 U.S. \$1.9 trillion as of December 31, 2008"?

13 A. Yes, I do see that.

14 Q. Do you believe those statements to
15 be accurate?

16 A. I have reason to believe they're
17 accurate as they appear in the Dexia annual
18 report.

19 Q. So, in the 2006, 2007, 2008 time
20 period, would you consider Dexia, and its
21 subsidiaries, to be a sophisticated financial
22 institution?

23 MR. DeLANGE: Object to the form
24 of the question.

25 A. I think it depends on the area of

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2 business in which it participates, whether
3 it's sophisticated and its sophistication
4 depends on receiving accurate information as
5 well and whether the information received is
6 accurate and they can apply their
7 sophistication.

8 Q. But to answer my question: In the
9 areas of which Dexia operated, would you
10 consider Dexia and its subsidiaries to be a
11 sophisticated financial institution?

12 MR. DeLANGE: Object to the form
13 of the question. Asked and answered.

14 A. Yes, in the areas that it operated
15 in.

16 Q. It was a major bank, right?

17 MR. DeLANGE: Object to the form
18 of the question.

19 A. A major bank in its jurisdiction
20 that it operated as a bank. It did not
21 operate as a bank in all jurisdictions, but
22 yes.

23 Q. So, if you turn back to the
24 organizational chart, which I think is
25 Exhibit 2 --

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2 A. This thing here?

3 Q. Yes. It should have a sticker that
4 says "Exhibit 2".

5 A. Yes, not this.

6 Q. Below Dexia SA, there is a Dexia
7 Credit Local entity?

8 A. Correct.

9 Q. What is that -- what was that
10 subsidiary?

11 A. It is a banking institution
12 organized in France.

13 Q. And does it -- did you refer to
14 that colloquially as DCL?

15 A. Yes.

16 Q. Does DCL have a New York branch?

17 A. Yes.

18 Q. Generally, can you explain to me
19 the types of activities that DCL would be
20 involved in in this New York branch? What did
21 its New York branch do for its business?

22 A. Currently or previously?

23 Q. Let's focus on the 2006, 2007 time
24 period.

25 A. I believe a large portion of its

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2 business was to provide Standby Bond Purchase
3 Agreements in financing to project finance
4 transactions. It also provided related
5 interest rate derivative or other derivative
6 products.

7 Q. How many employees were generally
8 employed by DCL N.Y.?

9 A. Again, in what period?

10 Q. 2006, 2007.

11 A. I don't have the -- I don't know
12 the exact number. I would say it would be
13 fewer than 200, but that's an approximation.

14 Q. And in the next entity on the org
15 chart going down is Dexia Holdings, Inc. You
16 see that?

17 A. Yes.

18 Q. What is Dexia Holdings, Inc.?

19 A. It is a holding company. It does
20 not have a business -- active business and
21 does not have employees.

22 Q. It's organized in Delaware?

23 A. Yes.

24 Q. And it owns 99.74 percent of
25 financial security assurance holdings as of

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2 March 31, 2007; is that right?

3 A. It did approximately own that
4 amount as of that date, yes.

5 Q. Who owned the remaining percentage?

6 A. I believe it was directors --
7 certain directors of Financial Security
8 Assurance Holdings, Ltd.

9 Q. Now, FSAH, is that company still in
10 existence?

11 A. Yes, under a different name.

12 Q. And it's new name is?

13 A. I believe, since it's not part of
14 the Dexia Group now, I believe it's Assured
15 Guarantee Municipal Holdings, Inc.

16 Q. SO, FSAH was sold to a company
17 named Assured?

18 A. It was sold to Assured Guarantee,
19 Ltd., correct?

20 Q. But certain aspects of FSAH were
21 not transferred to Assured; is that right?

22 A. Correct.

23 Q. And certain of those subsidiaries
24 remain at Dexia, correct?

25 A. Within the Dexia Group, yes,

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2 correct.

3 Q. And can you identify for me which
4 of the entities remain in the Dexia Group?

5 A. From this chart?

6 Q. Just generally, from your
7 knowledge.

8 A. On this chart, it would be the
9 companies -- there were three companies on the
10 tier below FSA Holdings, Ltd. Those companies
11 are told FSA Asset Management, LLC, which
12 we're referring to as FSAM. FSA Capital
13 Management Services LLC and FSA Capital
14 Markets Services LLC, in addition to
15 subsidiary of FSAM called FSA Portfolio Asset
16 Limited.

17 Q. In addition to those companies on
18 this chart, are there other subsidiaries that
19 remain with Dexia post the sale of FSAH to
20 Assured?

21 A. I don't believe they are qualified
22 as a subsidiary. They could be qualified
23 potentially as an affiliate, but there was a
24 company called FSA Global Funding Limited and
25 there's an interest in a funding -- a business

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2 called or a company called Cypress Point
3 Limited.

4 Q. What are those entities?

5 A. They are -- FSA Global Funding
6 Limited is based in the Cayman Islands and
7 provides or did provide a medium term note
8 business where it offered medium term notes to
9 investors, among other things.

10 Q. And does it still conduct that
11 business today?

12 A. It is essentially a runoff. All of
13 these businesses that I just mentioned are
14 effectively in runoff.

15 Q. What do you mean by runoff?

16 A. They're not issuing new borrowings
17 or borrowing new funds; they are
18 administering the existing liabilities,
19 paying the amounts as they come due, doing
20 relating hedging transactions that have to be
21 balanced from time to time. Seeking to
22 terminate transactions when they can, either
23 in response to an investor or a customer's
24 request. But it's no new business.

25 Q. What is the ultimate intent for

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2 to list as his contact information the Counsel
3 for the company, and he said yes.

4 Q. So, you asked him whether you could
5 list Bernstein Litowitz as his contact
6 information and he said yes?

7 A. Yes.

8 Q. Does, to your knowledge, Bernstein
9 Litowitz represent him in connection with this
10 litigation?

11 A. To my knowledge if, he is called to
12 testify Bernstein Litowitz would represent
13 him.

14 Q. I'm sorry; I forgot ask with
15 Russell Brewer, have you spoken with Russell
16 Brewer recently?

17 A. I believe the last time I spoke
18 with him personally was July 2011, maybe May,
19 June 2011.

20 Q. What did you speak with him about
21 then?

22 A. The divestment of the entire RMBS
23 portfolio of FSAM which could only be
24 accomplished in certain -- in certain --
25 compliance with certain documents that arose

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2 from the Assured transaction. And so we had a
3 meeting at Assured that included Russell
4 Brewer.

5 Q. So, let me unpack that a little
6 bit. Why don't you explain what you mean by
7 that? There was a meeting at Assured. What
8 precipitated that meeting?

9 A. The Dexia Group decided, in
10 approximately May 2011 to sell the RMBS
11 portfolio of FSAM. FSAM could not simply just
12 transfer those assets to third parties. Those
13 transfers were highly limited in a series of
14 documents arising from the separation of the
15 FP unit from FSA that closed on July 1st,
16 2009.

17 The way in which those transfers
18 would happen would be a call option would be
19 exercised by DCL New York, where DCL New York
20 would call the asset from FSAM. FSAM would
21 deliver the asset, which was defined to be the
22 transfer of all right, title and interest in
23 the asset to DCL New York.

24 Q. And then, I'm sorry, and you were
25 explaining how this meeting came about?

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2 A. The meeting came about because
3 Dexia performed, having effectively billions
4 of dollars moving, wanted to alert Assured and
5 did not want Assured to object to what was
6 going to be happening. And so, there was a
7 meeting held to discuss the -- how this series
8 of transfers that collectively would result in
9 the divestment of the RMBS portfolio would
10 function within the constraints of the
11 transaction documents between Dexia and
12 Assured.

13 Q. If Assured had chosen to, could
14 they have prevented the transfer?

15 A. They could not prevent the transfer
16 if the call settlement amount was the
17 outstanding principal amount of the RMBS
18 assets, plus accrued interest plus any
19 shortfalls that hadn't been paid.

20 Q. So, in other words, Assured could
21 not prevents the transaction so long as FSAM
22 was made whole, correct?

23 MR. DeLANGE: Object to the form
24 of the question.

25 A. FSAM would not be made whole as

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2 long as the transfer was in compliance with
3 the Guaranteed Put Contract. There was no
4 consent required from Assured under the
5 existing documents.

6 Q. I'm not sure I understand that.

7 A. FSAM was damaged because it bought
8 these RMBS securities and the amount it paid
9 on the purchase date was not the true value of
10 the certificates because information was not
11 provided to the purchaser as -- as it should
12 have been. You said, "made whole". I don't
13 know what you meant by "made whole".

14 Q. Let me be more precise then.
15 Assured could not prevents the transaction
16 from happening so long as FSAM received the
17 par value of the instrument and any shortfall
18 in payments that had happened during the time
19 it held the instrument, correct?

20 A. You also have to look at the entire
21 portfolio. The entire portfolio could not be
22 transferred unless par amount had been put
23 into FSAM under the existing documents because
24 at some point, you would reach -- you would
25 reach a situation where you cannot transfer an

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2 asset out of FSAM if it would cause a
3 collateral posting to be acquired from Dexia.
4 And because the entire portfolio
5 was transferred, there was no way that you
6 could have the -- anything other than the --
7 the assets coming out at their outstanding
8 principal amount. And because all of these
9 assets would be transferring, because Assured
10 was very aware of the collateral posting
11 obligation that was coming due on
12 September 29, 2011, Dexia wanted to disclose
13 the intent of this overall transaction with
14 Assured to make sure they didn't unexpectedly
15 seek to block it between potentially a trade
16 date and a settlement date. Because they
17 would know -- they were obligated to receive
18 information about these transactions. And in
19 theory, could have been confused, could have
20 tried to halt the transactions.

21 Q. The transactions ultimately went
22 through, correct?

23 A. Yes.

24 Q. And -- and Dexia sold all of FSAM's
25 RMBS holdings, correct?

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2 Q. How poorly? Do you know
3 approximately the percentage of value that was
4 lost in 2008 portfolio wide?

5 A. I do not know portfolio wide.

6 MR. DeLANGE: Objection; beyond
7 the scope.

8 Go ahead, answer.

9 Q. So, the third quarter of 2008,
10 Dexia received, essentially, a bailout from
11 Belgian and France, correct?

12 MR. DeLANGE: Object to the form;
13 asked and answered.

14 A. It received certain sovereign
15 guarantees on funding. I believe it also
16 received a recapitalization, again, from
17 certain European governments.

18 Q. Can you walk me through the actions
19 that were taken in the third quarter of 2008
20 insofar as Dexia's restructuring and infusion
21 of capital?

22 A. I believe the French and Belgian
23 governments infused more than 6 billion of
24 capital into Dexia. They also provided
25 certain guarantees that would allow Dexia to

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2 borrow funds in the market to then be able to
3 service liabilities as they were coming due.

4 Q. And then what happened next?

5 A. Next?

6 Q. Next in line. So, you get this
7 capital infusion. In the story of Dexia, what
8 happened next?

9 A. They made a decision to exit the
10 United States financial guaranteed and --
11 financial guaranteed business. So, one of
12 their first decisions and actions was to sell
13 the FSA, Inc. insurance business. I believe
14 that process must have begun October 2008
15 because the agreement was signed in
16 November 2008.

17 Q. You said they made the decision.
18 Who is they?

19 A. I would expect the Dexia management
20 board made the decision.

21 Q. They decided to, essentially, get
22 out of the FSA, Inc. insurance business,
23 right?

24 A. They decided to sell it, yes.

25 Q. And they sold it to Assured?

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2 A. Assured Guaranteed Limited, yes.

3 Q. And they did that because they
4 believed it was in the best interest of Dexia
5 SA and its other affiliates, correct?

6 MR. DeLANGE: Object to the form
7 of the question. Beyond the scope.

8 A. I believe they considered it to be
9 in the best interest of Dexia to focus their
10 efforts on the European region?

11 Q. And as a result they needed to sell
12 certain parts of the FSAH entity, correct?

13 MR. DeLANGE: Object to the form
14 of the question.

15 A. They sold the FSA, Inc. insurance
16 business.

17 Q. Now, they didn't sell the FSAM
18 aspect of the business to Assured, correct?

19 A. Correct.

20 Q. Why was that?

21 MR. DeLANGE: Object to the form
22 of the question.

23 A. Assured would not buy it.

24 Q. Why wouldn't they buy it?

25 MR. DeLANGE: Object to the form

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2 of the question. Beyond the scope.

3 A. Because of the massive existing and
4 potential losses on the RMBS portfolio being
5 insufficient to service the GIC liabilities.

6 Q. And so, instead of selling those
7 liabilities to Assured, Dexia made the
8 business decision to take them itself,
9 correct?

10 MR. DeLANGE: Object to the form
11 of the question. Misstates the
12 testimony.

13 A. If you're selling liabilities, you
14 essentially have to pay someone to take the
15 liability. They weren't paying Assured and
16 Assured didn't want to obtain to take on the
17 GIC liabilities directly.

18 It was certainly aware that the
19 insurance company it was buying -- was
20 guaranteeing the GIC liabilities and because
21 you can't go to the hundreds of GIC holders
22 and take back the insurance policy, the
23 transaction for the purchase of the insurance
24 business included the separation of the
25 financial products business from FSA, Inc.

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2 from Assured through a number of fairly
3 complex agreements.

4 Q. Right. And the result of those
5 fairly complex agreements is that the FSAM
6 part of FSAH now resides with Dexia whereas
7 the insurance arm is with Assured, right?

8 A. Essentially, yes.

9 Q. Explain to me the sovereign
10 guarantee that Dexia received from France and
11 Belgian?

12 MR. DeLANGE: Object to the form.

13 Beyond the scope.

14 You can answer.

15 A. If you could be more specific about
16 which one.

17 Q. Well, why don't you tell me the
18 number of sovereign guarantees they received
19 and then we'll go through them individually?

20 A. The one which I'm most familiar is
21 the sovereign guarantee of Belgian and French
22 states that related to a portfolio of assets
23 at FSAM that included the RMBS portfolio.

24 Q. And for the jury who is going to be
25 listening to this, how at that -- explain in a

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2 way that a jury can understand, how did those
3 sovereign guarantees work?

4 MR. DeLANGE: Object to the form
5 of the question.

6 A. In the event there was a principal
7 shortfall, interest shortfall, breakdown on an
8 asset that was covered by that guarantee,
9 first there was something called the Guarantee
10 Put Contract. FSAM would be obligated to
11 submit a put claim to Dexia SA and DCL New
12 York branch.

13 Dexia SA and DCL New York branch
14 were obligated to then pay the put settlement
15 amount to FSAM. However, they also had, and
16 did, exercise their right to make a deferred
17 settlement election. And what that meant is,
18 as opposed to paying the entire purchase
19 amount, meaning, principal amount and interest
20 of the asset, they would pay shortfall amounts
21 as they came you due going forward.

22 If Dexia SA did not perform on that
23 obligation to FSAM then FSAM would submit a
24 claim on the state guarantee for the Belgian
25 and French states.

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2 Marking as Exhibit 10, a document
3 bates stamped DEX_ JPM_00288327 through '391.

4 (Plaintiff's Exhibit 10, document
5 Bearing Bates label DEX_JPM_00288327
6 through '391, marked for
7 identification, as of this date.)

8 Q. Do you recognize Exhibit 10?

9 A. Yes.

10 Q. What is it?

11 A. It is the put option confirmation
12 from the sovereign Guarantee Put Contract.

13 Q. And it says at the top, "executed
14 version".

15 Do you see that?

16 A. It says, "execution version".

17 Q. "Execution version," excuse me.

18 Does this appear to you to be the
19 final version of this contract?

20 A. It appears to be as of the closing.
21 I don't recall if there was an amendment also
22 at closing. I recall, for example, an
23 amendment of this Purchase Agreement. I don't
24 recall if they had to amend anything on the
25 Guarantee Contract at closing.

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2 Q. Subject to any amendment, this is
3 the final execution version of the contract?

4 A. It appears to be, yes.

5 Q. Explain to me the purpose of
6 this agreement.

7 MR. DeLANGE: Object to the form
8 of the question.

9 A. It has several purposes. This
10 particular confirmation set forth the
11 guarantee by Dexia SA and DCL, acting through
12 its New York branch, of assets held by FSAM
13 that were covered by this Guarantee Put
14 Contract in which in turn were also covered by
15 the sovereign guarantee from the Belgian and
16 French states. There were four triggers,
17 which I can get into if you'd like, that would
18 result in put claims.

19 If there were put claims asserted
20 by FSAM to Dexia SA and DCL New York, then
21 Dexia SA and DCL New York would be obligated
22 to pay a put settlement amount unless they
23 made a deferred settlement election, which
24 they always did. Or substantially always did.
25 And at that point, what they would -- what

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2 Dexia SA and DCL New York branch would do
3 would pay principal shortfalls, interest
4 shortfalls and write down amounts as they came
5 due on the FSAM assets that were covered by
6 this guarantee.

7 In addition, this Put Contract
8 includes a call option provision which
9 governed the ability of Dexia SA or DCL New
10 York branch to call assets from FSAM. And if
11 assets were called, those assets would be
12 delivered, which is a defined term in this
13 document, and it's defined to be the transfer
14 of all right, title and interest in the assets
15 from FSAM to the calling party.

16 Q. And just so I understand how it
17 worked in practice, you said that the Dexia SA
18 and DCL parties always chose to -- not to
19 essentially buy the RMBS in response to the
20 put, but instead, paid the -- essentially the
21 shortages; is that right?

22 MR. DeLANGE: Object to the form
23 of the question.

24 A. In the contract, they had the right
25 to make the deferred settlement election. In

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2 the sovereign guarantee documentation, the
3 sovereigns -- Dexia made a covenant to the
4 sovereigns that they would, in fact, make the
5 deferred settlement election.

6 There are going to be circumstances
7 where, for example, if an asset had been
8 written down to zero, there's no more deferral
9 and by the operation of this contract,
10 nevertheless it would be put and there could
11 be no deferred settlement election if the
12 asset was, in fact, then put and the put
13 settlement amount was paid.

14 Q. But in the ordinary course, if the
15 asset had been written all the way down, they
16 would choose the deferred settlement option?

17 A. Unless the asset had been
18 written --

19 Q. Unless the asset had been written
20 all the way down?

21 A. Yes.

22 Q. And then ultimately, the Dexia SA
23 and DCL entities exercised -- in fact,
24 exercised call options related to the assets,
25 correct?

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2 A. They exercised call options related
3 to the assets that they called which were, at
4 the time they exercised those call options,
5 beginning approximately June 2011, between
6 June and September 2011, they called all
7 remaining assets that were covered by the
8 Guaranteed Put Contract in the sovereign
9 guarantee.

10 Q. With respect to the residential
11 mortgage-backed securities at issue in this
12 case, were each of them subject to a call by
13 Dexia SA and Dexia Credit Local?

14 A. I don't believe each of them were.
15 I believe some were put because they were
16 effectively written down to zero. I believe
17 there's a subset that were put and a larger
18 portion that were called.

19 Q. Okay. So, either whether through
20 the put or the call, every RMBS at issue in
21 this case was transferred pursuant to this
22 agreement from FSAM to Dexia SA/DCL?

23 MR. DeLANGE: Object to the form
24 of the question.

25 A. The assets were delivered, as

1 J. PETERSON-11/8/12

2 defined, to DCL New York branch, which was the
3 entity that made the Call Exercise Notice.

4 Q. When Dexia SA and DCL elected to do
5 the deferred settlement option, was there a
6 paperwork that evidenced that election?

7 A. I don't recall. I don't recall if
8 there was a separate deferred settlement
9 election for every put.

10 Q. Were they -- were they told by FSAM
11 what the shortages were?

12 A. When a put claim was submitted,
13 there would be a document that included
14 evidence of a shortfalls that were being
15 claimed at that particular time which
16 typically would include trustee reports or
17 service reports or something that shows the
18 underlying shortfalls that had been claimed.

19 Q. Do you know if those documents have
20 been produced in this litigation?

21 A. I don't know if they had been
22 produced to date, but --

23 MR. EARNHARDT: I would just
24 request that we get those.

25 TO BE FURNISHED:_____

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2

3 Q. Another question; so you said you
4 believe some of the residential
5 mortgage-backed securities at issue in this
6 case were written down to zero?

7 A. I believe they were. Yes, I
8 believe they were -- I believe there were
9 some. I don't know which ones, but I believe
10 there were some.

11 Q. Do you know which ones?

12 A. I believe it's been on a schedule
13 that has been produced to you. If not, they
14 can be readily identified.

15 Q. The question I was going to ask is;
16 how would we find that out? What schedule
17 exists to tells which ones were called, which
18 ones were put, where they reside?

19 A. I believe there's a document that
20 has been produced that shows purchase date,
21 purchase amount, sale date, sale amount. And
22 I believe on that particular document, it will
23 -- it will have an indication as to whether it
24 was put as opposed to called. I don't think
25 it says put versus called, but I believe you

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2 can deduce if it wasn't sold in the June to
3 September 2011 period, it would have been put
4 earlier than that.

5 Q. Let me show you what I'm marking as
6 Exhibit 11, which is a document titled,
7 "Plaintiffs' Supplemental Response and
8 Objections to Defendants' First Set of
9 Interrogatories".

10 (Plaintiff's Exhibit 11, document
11 titled, "Plaintiffs' Supplemental
12 Response and Objections to Defendants'
13 First Set of Interrogatories," marked
14 for identification, as of this date.)

15 Q. If you turn to Exhibit A to this
16 document, do you recognize this chart?

17 A. Yes.

18 Q. What is it?

19 A. I believe it is a chart of the RMBS
20 positions that are at issue in this litigation
21 identifying their purchase trade date,
22 purchase price, certain additional
23 information, as well as sale trade date, sale
24 price.

25 Q. Is this the document you were

1 J. PETERSON-11/8/12
2 referring to in your earlier testimony where
3 you thought you could define whether a
4 document -- whether a particular RMBS was put
5 or called or were you thinking of something
6 different?

7 A. It's either this specific document
8 or a further variation of this document, but
9 it is the information as provided on this
10 schedule that I was referring to.

11 Q. Can you just walk me through how
12 you would tell whether one was put or called?

13 A. Usually it would be, if not always
14 be, the column sale trade date where it says,
15 "certificate written down by issuer in" and
16 then there's a date?

17 Q. Yes.

18 A. Those are the certificates that
19 were put as opposed to sell because I believe
20 all the sale trade dates fall within the June
21 to September 2011 time period.

22 Q. And why is it that all the sale
23 trade dates fall in that time period?

24 A. Because that followed the May 2011
25 decision by Dexia to divest itself of the

1 J. PETERSON-11/8/12

2 entire RMBS portfolio.

3 Q. And why did it make that decision?

4 MR. DeLANGE: Object to the form
5 of the question. Asked and answered.

6 A. Among other reasons, it was going
7 to have a multi-billion dollar collateral
8 posting obligation due to FSAM on
9 September 29, 2011. It chose to sell these
10 positions, in part, to raise liquidity which
11 would be kept in FSAM following the sale --
12 following the calls as opposed to leaving the
13 assets in FSAM and still having to come up
14 with multi-billion dollars on the market to
15 satisfy the Dexia collateral posting
16 obligation due on September 29, 2011.

17 Q. How significant was the collateral
18 posting that was due on September 29, 2011?

19 MR. DeLANGE: Object to the form.

20 Q. Do you remember the exact amount?

21 A. There's a weekly calculation. It
22 would have been the calculation immediately
23 prior to that date. It was estimated to be in
24 excess of \$3 billion.

25 Q. Could Dexia have posted that

1 J. PETERSON-11/8/12

2 collateral without selling these assets?

3 MR. DeLANGE: Object to the form

4 of the question. Beyond the scope.

5 A. It would have had to do another
6 different transaction to raise those funds.

7 Q. It had to sell something in order
8 -- in order to post that collateral?

9 A. It had to find the source of funds
10 from somewhere and it chose to -- it chose to
11 satisfy that collateral posting obligation by
12 retaining funds within FSAM from the
13 divestment of the RMBS portfolio.

14 Q. Do you know which of these RMBS
15 that it decided to sell to satisfy this
16 collateral obligation had missed monthly
17 payments to the holder of the tranche of the
18 RMBS, if any?

19 MR. DeLANGE: Object to the form
20 of the question; beyond the scope.

21 But you can answer.

22 A. I don't know.

23 Q. Do you know which of these RMBS are
24 projected to miss monthly payments provided to
25 the holder of the collateral?

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2 MR. DeLANGE: Object to the form
3 of the question; beyond the scope.

4 You can answer.

5 A. I don't know which ones were
6 projected at the time of the sale, let alone
7 know, which they're no longer within the
8 portfolio.

9 Q. Dexia made the decision not to keep
10 the mortgage-backed securities and receive
11 those monthly payments, but instead decided to
12 sell them in this six month window, three
13 month window so that it could make its
14 collateral posting obligations, right?

15 MR. DeLANGE: Object to the form
16 of the question.

17 A. That was a reason for the
18 divestment at that time and that is how the
19 proceeds were used.

20 Q. And you said that Dexia was
21 required to post collateral. What agreement
22 required it to post that collateral?

23 A. The credit support annex to the
24 Guaranteed Put Contract.

25 Q. Explain to me how that works.

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2 A. It's another complicated document.
3 There is a collateral posting calculation from
4 July 1st, 2009 to September 29, 2011 that was
5 under the credit support annex for the
6 Guaranteed Put Contract.

7 After September 29, 2011 and
8 onward, the calculation is under the credit
9 support annex for the non-Guaranteed Put
10 Contract. The two calculations are the same
11 with one difference. From the period July 1,
12 2009 to September 29, 2011, the assets that
13 were called the put portfolio assets and
14 subject to the Guaranteed Put Contract and,
15 thus, subject to the sovereign guarantee were
16 valued at their then par amount.

17 Beginning on September 29, 2011,
18 those same assets would be valued at their
19 market value subject to their significant
20 haircuts which, in some cases, were
21 100 percent haircuts, meaning, they had zero
22 value.

23 Q. So, just to be clear, that
24 requirement was part of contracts that allowed
25 Dexia to sell FSAI to Assured, correct?

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2 A. It was.

3 MR. DeLANGE: Object to the form
4 of the question.

5 A. It was a term of the FP separation
6 documents.

7 Q. Which were part of the numerous
8 transaction documents that were entered into
9 to allow Dexia to sell FSAI to Assured,
10 correct?

11 MR. DeLANGE: Object to the form
12 of the question.

13 A. They were connected with the sale
14 of the insurance company in that they happened
15 in the same transaction, the same closings.

16 Q. So, the ultimate need by Dexia to
17 sell the mortgage-backed securities listed in
18 the schedule we just looked at was caused by
19 an obligation that Dexia undertook so it could
20 -- that it undertook voluntarily so that they
21 could sell FSAI to Assured?

22 MR. DeLANGE: Object to the form
23 of the question.

24 A. It is not the only reason why it
25 chose to sell the RMBS portfolio. But one of

1 J. PETERSON-11/8/12

2 the results of the decision to sell the RMBS
3 portfolio was that it could satisfy a
4 significant collateral posting obligation
5 coming due in a few months.

6 Q. As a practical matter, it was
7 forced to sell the mortgage- backed
8 securities, right?

9 MR. DeLANGE: Object to the form
10 of the question. Asked and answered.
11 Beyond the scope.

12 Q. What other options did it have?

13 MR. DeLANGE: Objection to the
14 form of the question. Beyond the
15 scope.

16 A. It could have sold other assets.
17 It could have sought to raise funds in a
18 different avenue. I'm not familiar with every
19 option it had.

20 Q. What other major assets did it have
21 that it could sell to raise over \$3 billion
22 dollars?

23 MR. DeLANGE: Objection to the
24 form of the question. Beyond the
25 scope.

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2 A. I don't know the content of its
3 entire asset portfolio, but it had other
4 assets. It chose to sell assets in a region
5 which it had elected to exit, initiated when
6 it decided to sell the FSA, Inc. insurance
7 business.

8 Q. If you could turn back to the put
9 option confirmation, which I think we marked
10 as Exhibit 9?

11 A. Yea.

12 Q. If you could, turn to page 11.

13 MR. DeLANGE: Wes, it's
14 Exhibit 10.

15 MR. EARNHARDT: I'm sorry; Exhibit
16 10.

17 Q. If you could turn to page 11 of
18 that exhibit --

19 A. Yes.

20 Q. -- you see on page 11, there's a
21 definition for the term, "deliver"?

22 A. Yes.

23 Q. Deliver is in all caps in bold and
24 in quotation marks?

25 MR. DeLANGE: Object to the form

1 J. PETERSON-11/8/12

2 of the question.

3 Q. You see that?

4 A. Yes, I see the word, "deliver" in
5 all caps and bold.

6 Q. Initial caps and bold. And can you
7 just read into the record that paragraph?

8 A. "Deliver means to deliver,
9 motivate, transfer, assign or sell, as
10 appropriate, in the manner customary for the
11 settlement of the applicable put settlement
12 assets (which shall include executing all
13 necessary documentation and take any other
14 necessary actions), in order to convey all
15 right, title and interest in the put
16 settlement assets to Dexia or DCL, as
17 applicable, free and clear of any and all
18 liens, charges, claims or encumbrances:
19 Provided that, Dexia and DCL each hereby waive
20 any right to object to the Delivery of a put
21 settlement asset (i) as failing to be free and
22 clear of liens, charges, claims or
23 incumbrances or (ii) for breach of any implied
24 or expressed representation or warranty
25 hereunder, except in the case of a lien,

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2 charge, claim or encumbrance that is
3 predominantly attributable to actions of FSA
4 taken after the effective date."

5 Q. I went to focus on the clause in
6 the parenthetical that you read, which says
7 "which shall include executing all necessary
8 documentation and taking any other necessary
9 actions".

10 Do you see that?

11 A. Yes.

12 Q. So, this definition, and because
13 this definition is in the contract, this
14 contract requires the execution of "necessary
15 documentation" to effectuate delivery of all
16 right, title and interest, correct?

17 MR. DeLANGE: Object to the form
18 of the question.

19 A. Could you repeat the question?

20 Q. Maybe I will say it a little more
21 simply. This definition of deliver requires
22 the execution of all necessary documentation
23 in order to convey all right, title and
24 interest to the put settlement assets, right?

25 MR. DeLANGE: Object to the form

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2 of the question.

3 A. It doesn't define what necessary
4 documentation is, but it requires
5 documentation.

6 Q. And Dexia and DCL waived their
7 right to object to delivery of a put
8 settlement asset as failing to be free and
9 clear of liens, charges, claims or
10 incumbrances or for breach of any implied or
11 expressed representation or warranty except
12 for a few examples. So, they waived -- Dexia
13 and DCL waived their right based on the asset
14 being free and clear of liens and not being in
15 breach of an implied or expressed
16 representation or warranty, correct?

17 MR. DeLANGE: Object to the form
18 of the question.

19 A. The purpose this definition related
20 to a financial obligation of Dexia and DCL to
21 the benefit of FSAM, and Assured did not want,
22 or allow, Dexia and DCL to block their
23 financial obligation by raising certain
24 objections.

25 Q. But it retained the ability to make

1 J. PETERSON-11/8/12

2 other objections, right?

3 A. I don't know what other objections
4 you have in mind, but --

5 Q. But there's nothing in the document
6 that eliminates any objections that Dexia and
7 DCL might have other than the two enumerated
8 here, right?

9 MR. DeLANGE: Object to the form
10 of the question.

11 A. I would have to see if the there
12 are other provisions in the Guaranteed Put
13 Contract where Dexia had waived their ability
14 to make other objections.

15 Q. Fair enough. But in this
16 definition of deliver, the only two objections
17 that Dexia and DCL waived were the two
18 enumerated there, correct?

19 A. In this paragraph.

20 Q. And presumably, if there were other
21 objections that Dexia or DCL might have had
22 with respect to the subjects covered by this
23 paragraph, they were not waived because they
24 were not enumerated as something that Dexia
25 and DCL were waiving, correct?

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2 MR. DeLANGE: Object to the form
3 of the question.

4 A. You can't make that presumption
5 without understanding whether there had been
6 waivers in other documents of that ability,
7 yes.

8 Q. Sitting here today, do you know of
9 other waivers in other documents relevant to
10 this?

11 A. I could sit here today and check
12 the documents to see if there are them.

13 Q. Absent doing that.

14 A. Because typically, there wouldn't
15 be provisions that would not allow Dexia or
16 DCL to fulfill this guarantee obligation which
17 was conditioned on the delivery as defined.
18 And there would have been provisions made so
19 they would not have the ability to make other
20 types of waivers.

21 Q. Sitting here today, without
22 reviewing all the numerous documents, can you
23 think of any?

24 A. Not without further review.

25 Q. Okay. Now, the additional

1 J. PETERSON-11/8/12
2 necessary documentation took the form of
3 either these put exercise notices or the call
4 exercise notices, correct?

5 MR. DeLANGE: Object to the form
6 of the question.

7 A. The ones that were actually
8 transferred were through a Put Exercise Notice
9 or a Call Exercise Notice.

10 Q. Let me show you an example of a
11 Call Exercise Notice.

12 I'll show you what I'm marking as
13 Exhibit 12.

14 (Plaintiff's Exhibit 12, Call
15 Exercise Notice dated June 20, 2011,
16 marked for identification, as of this
17 date.)

18 Q. Do you recognize Exhibit 12?

19 A. Yes.

20 Q. What is it?

21 A. It is a Call Exercise Notice dated
22 June 20, 2011 relating to a certain call of
23 assets by DCL New York from FSAM.

24 Q. If you turn to the very last page
25 of this exhibit, there's something labeled

1 J. PETERSON-11/8/12

2 Annex 2?

3 A. Yes.

4 Q. What is Annex 2?

5 A. It would be the list of specific
6 assets that were called from FSAM pursuant to
7 this Call Exercise Notice.

8 Q. And this Call Exercise Notice and
9 other Call Exercise Notices like it were the
10 mechanisms by which the residential
11 mortgage-backed securities in this case,
12 except for the few that were put that we've
13 talked about, were transferred from FSA Asset
14 Management to Dexia, correct?

15 MR. DeLANGE: Object to the form
16 of the question.

17 A. This is how they were delivered as
18 defined, but, yes, pursuant to this Call
19 Exercise Notice.

20 Q. So, let's take a look at this. In
21 the last sentence of the first paragraph --
22 actually, can you read into the record the
23 last sentence of the first paragraph?

24 A. "Capitalized terms used but not
25 defined herein shall have the meanings

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2 document.

3 Q. But we just went through and you
4 agreed that the deliver definition
5 contemplates the execution of all necessary
6 documentation, right?

7 MR. DeLANGE: Object to the form
8 of the question. He already told you
9 that the Call Exercise Notice was not
10 executed.

11 Go ahead, John, you can answer.

12 A. The Call Exercise Notice was not
13 countersigned by FSAM.

14 Q. So --

15 A. This document is sufficient. The
16 Put Contract is sufficient.

17 Q. So, you're saying we should look to
18 the trade confirmation to see -- to see the
19 word, "deliver" in there, to see the
20 assignment of the right, title and interest?

21 MR. DeLANGE: Object to the form
22 of the question. Wes, he's told you
23 ten times to look to the --

24 MR. EARNHARDT: Tim, you can't
25 testify, okay.

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2 MR. DeLANGE: I can make an
3 object.

4 MR. EARNHARDT: You can object to
5 the form, but you cannot testify.

6 MR. DeLANGE: You asked the same
7 question ten times. He's told you
8 what documentation to look to.

9 MR. EARNHARDT: That's fine;
10 object.

11 MR. DeLANGE: You want to ask him
12 again which documentation to look to,
13 go ahead, he'll answer for the tenth
14 time.

15 MR. EARNHARDT: Do not testify.
16 I've given you a lot of leeway. Do
17 not coach the witness.

18 MR. DeLANGE: You don't have
19 leeway to give or not give me. Ask
20 the questions, he'll answer. I'll
21 object, but you asked the same
22 question ten times.

23 Q. So, are you saying that we have to
24 look at the trade confirmation to see the
25 delivery of right, title and interest?

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2 MR. DeLANGE: Object to the form
3 of the question. It misstates his
4 testimony.

5 A. No, you look to the Guaranteed Put
6 Contract, put option confirmation. That is
7 the governing document. This term, "deliver"
8 is required to happen and this effects that
9 for every transfer under the call option.

10 Q. So, you said this is required to
11 happen. Required by the contract, right?

12 A. I don't know what you mean by
13 "this".

14 Q. You said, quoting you, "this is the
15 governing document. This term, 'deliver' is
16 required to happen."

17 That's your testimony, right?

18 MR. DeLANGE: Object to the form
19 of the question. It misstates his
20 testimony.

21 A. Are you reading the entire
22 testimony, before and after?

23 MR. EARNHARDT: Can you read back
24 his testimony, the question just
25 before the one I just asked?

1 J. PETERSON-11/8/12

2 (Whereupon, the referred to
3 testimony was read back by the
4 Reporter.)

5 A. And your question is?

6 Q. The question is, you said deliver
7 is required to happen, right? And my question
8 is, required to happen under the put option
9 confirmation contract.

10 A. I don't believe I said deliver is
11 required to happen. Deliver happens. It
12 happens when the assets is transferred
13 pursuant to a call option.

14 Q. Pursuant to the -- pursuant to the
15 put option confirmation is what you're saying?

16 A. Correct.

17 Q. Could you turn to page 16 of the
18 put option confirmation? You see the
19 paragraph that says "call settlement"?

20 A. Yes.

21 Q. Do you see that it says,
22 "Settlement of the call option shall occur on
23 the second business day after delivery to
24 party B of the call notice."

25 A. Yes.

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2 Q. Such date, the call settlement
3 date.

4 "On the call settlement date, the
5 collateral agent will deliver to DCL or Dexia,
6 as applicable, the relevant call settlement
7 assets against payment of the call settlement
8 amount to party B by party A."

9 You see that?

10 A. Yes.

11 Q. "If party A fails to pay the call
12 settlement amount, the call option will fail
13 and the related call settlement assets will
14 not be delivered to party A."

15 Do you see that?

16 A. Yes.

17 Q. So, here, in caps, it says the
18 collateral agent will deliver to DCL or Dexia
19 as applicable the relevant call settlement
20 assets, right?

21 A. Yes.

22 Q. Where does it say that FSAM will
23 deliver, in capital letters, the collateral
24 settlement assets to the collateral agent?

25 A. The collateral agent has a security

1 J. PETERSON-11/8/12
2 interest of all of FSAM's assets under the
3 Pledge and Administration Agreement. Because
4 FSAM has pledged all of its interests in all
5 of its assets to the collateral agent, this
6 sentence refers to the fact that the
7 collateral agent will deliver to DCL or Dexia
8 SA.

9 Q. And where is the -- where would we
10 find the pledge by FSAM to the collateral
11 agent?

12 A. Article 2 of the Pledge and
13 Administration Agreement.

14 Q. Has that been produced in this
15 litigation?

16 A. Yes.

17 Q. Who is the collateral agent?

18 A. The Bank of New York Trust Company.
19 I believe it's the Bank of New York Mellon
20 Trust Company.

21 MR. EARNHARDT: Let's take a short
22 break.

23 THE VIDEOGRAPHER: The time is
24 2:50 p.m. We're off the record.

25 (Whereupon, a short break was

1 J. PETERSON-11/8/12

2 held.)

3 THE VIDEOGRAPHER: The time is

4 3:08 p.m. We're on the record.

5 Q. Let me show you what I'm marking as

6 Exhibit 13. That is a document Bates stamped

7 DEX_JPM_00613731 through '751.

8 (Plaintiff's Exhibit 13, document

9 bearing Bates label DEX_JPM_00613731

10 through '751, marked for

11 identification, as of this date.)

12 MR. DeLANGE: Do you have a copy?

13 MR. EARNHARDT: I don't actually

14 have a copy of this one.

15 MR. DeLANGE: I'll read over his

16 shoulder.

17 Q. Do you recognize this document?

18 A. Yes.

19 Q. What is this document?

20 A. It is the Pledge and Intercreditor

21 Agreement that was, in essence, in effect for

22 about three months from the middle of November

23 until approximately, I believe, February of

24 2009.

25 Q. I don't want to misstate your

1 J. PETERSON-11/8/12

2 earlier testimony, but to try to summarize it,
3 I believe you testified that the -- that FSAM
4 transferred its assets to the collateral agent
5 pursuant to a Pledge and Intercreditor
6 Agreement; is that right?

7 MR. DeLANGE: Object to the form
8 of the question.

9 A. A transferred -- it pledged its
10 assets pursuant to the Pledge and
11 Administration Agreement dated as of June 30,
12 2009.

13 Q. That's not this document?

14 A. That's not this document.

15 Q. The document you're referring to is
16 dated June 30, 2009?

17 A. Correct.

18 Q. What was the purpose of this
19 document?

20 A. This was a reordering of the
21 priority of the liens on assets that
22 constituted the FP business. It was executed
23 by the date immediately prior to the execution
24 of the Purchase Agreement with Assured.

25 Q. Got it. Okay. You can set that

1 J. PETERSON-11/8/12

2 aside.

3 This is 14. So, marking
4 Exhibit 14, the document Bates stamped
5 DEX_JPM_00288460 through DEX_JPM_00288477.

6 (Plaintiff's Exhibit 14, document
7 bearing Bates label DEX_JPM_00288460
8 through '477, marked for
9 identification, as of this date.)

10 Q. And I'm marking as Exhibit 15
11 DEX_JPM_00288489 through '506.

12 (Plaintiff's Exhibit 15, document
13 bearing Bates label DEX_JPM_00288489
14 through '506, marked for
15 identification, as of this date.)

16 Q. So, do you have Exhibit 14 and 15
17 in front of you?

18 A. Yes.

19 Q. Do you recognize these documents?

20 A. They appear to be the ISDA Master
21 Agreements only, I'm assuming the Guaranteed
22 Put Contract and the Non-Guaranteed Put
23 Contract.

24 Q. We'll start with Exhibit 14, the
25 one that ends in Bates stamp '489.

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2 A. That's 15.

3 Q. Sorry; yeah. So, start with the
4 one that ends in '460.

5 Can you tell me how this document
6 relates to the Put Agreement we've been
7 discussing earlier?

8 MR. DeLANGE: Object to the form
9 of the question.

10 A. The Put Contract was documented
11 under an ISDA Master Agreement. In addition
12 to this ISDA Master Agreement is a schedule to
13 the ISDA Master Agreement, a second document.
14 A third document is the Credit Support Annex
15 to the ISDA Master Agreement. And the fourth
16 document the put option confirmation that we
17 previous looked at. Collectively, the four
18 documents constitute the Guarantee Put
19 Contract.

20 Q. So, let's just take those in order.
21 This is the overall Master Agreement. We've
22 looked at the put confirmation. And then you
23 mentioned the credit support annex?

24 A. Correct.

25 Q. What is that?

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2 A. A credit support annex typically
3 for an ISDA Master Agreement will govern
4 collateralization obligations from one party
5 to another. In this case, the credit support
6 annex, among other things, governed the Dexia
7 collateral posting calculation that was
8 required to be made -- is made every week and
9 as we discussed earlier, the calculation was
10 operative under the Guaranteed Put Contract
11 from July 1st, 2009 to September 29, 2011.
12 And under the Non-Guaranteed Put Contract from
13 September 29, 2011 and onward.

14 Q. The Guaranteed Put Contract has
15 essentially run its course?

16 MR. DeLANGE: Object to the form
17 of the question.

18 A. The I don't know if every provision
19 has run its course. The assets that were
20 subject to the guarantee put confirmation are
21 no longer at FSAM.

22 Q. They've been either put or call --

23 A. They are no longer eligible to be
24 put or called. The credit support annex
25 calculation is now operative under the

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2 the course of an insurance transaction?

3 A. Because it is part of the
4 definition on page 2 the procedures where it
5 says, "Nonpublic information received in the
6 course of the proposed or actual financial
7 guarantee transaction is always assumed to be
8 confidential."

9 Q. Were these information barrier
10 procedures audited?

11 MR. DeLANGE: Object to the form
12 of the question.

13 A. I don't know personally whether
14 they were audited. I believe there were
15 internal audits conducted and whether internal
16 audits included an assessment of these
17 procedures, I don't have that knowledge.

18 Q. Have you heard the term, "wall
19 crossers" before?

20 A. Yes.

21 Q. What does that refer to?

22 A. It is referenced, for example, in
23 this document, it involves the circumstance
24 when an employee of one side of the FSA
25 business, for example, an insurance employee

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2 crosses the firewall to talk to a trading
3 employee. The consequence is if an insurance
4 employee crosses the wall to obtain
5 information from a trading employee, the
6 insurance employee cannot go back over the
7 wall and use that information in the insurance
8 transaction.

9 Similarly, as a trading employee
10 crossed the wall to talk to an insurance
11 employee, the trading employee could not take
12 that information back across the wall and use
13 it in a trading transaction.

14 Q. Were there instances where
15 individuals "crossed the wall"?

16 A. I do not -- I have no recollection
17 of a wall crossing ever happening.

18 Q. You can put that document to the
19 side.

20 So, in this litigation, Dexia and
21 FSAM have sued various J.P. Morgan Bear
22 Stearns and WaMu entities, right?

23 A. Yes.

24 Q. Related to mortgage-backed
25 securities that FSAM purchased in 2006 and

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2 2007?

3 A. Yes.

4 Q. Dexia has also brought lawsuits
5 against other investment banks involved in the
6 securitization of mortgage loans in the 2006,
7 2007 time period, correct?

8 A. Yes.

9 Q. And those lawsuits include
10 complaints filed against Deutsche Bank,
11 Merrill Lynch, Countrywide, Bank of America
12 and others; is that right?

13 A. I believe the Complaint did not
14 identify separately Bank of America, but it
15 was included in the Complaint against its
16 affiliates.

17 Q. And the securitizations at issue in
18 those lawsuits, and this one, involve
19 literally hundreds of originators of mortgage
20 loans, right?

21 A. I don't have knowledge of whether
22 it's hundreds, but it is many originators,
23 yes.

24 Q. So, are there any mortgage-backed
25 securities -- residential mortgage-backed

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2 securities that FSAM owned during the 2006,
3 2007 time period that never became the subject
4 of either a litigation for a tolling
5 agreement?

6 MR. DeLANGE: I'm going to object
7 to the question to the extent it calls
8 for privileged information.

9 You can answer the question yes or
10 no. I just don't want you to go into
11 more details with that question.

12 A. To my knowledge, there are RMBS
13 securities that are not the subject of a
14 tolling agreement or litigation.

15 Q. But was that FSAM purchased during
16 2006, 2007?

17 A. To my knowledge, I believe there
18 are some, yes.

19 Q. Roughly how many?

20 A. That, I don't know.

21 Q. You sued on the vast majority of
22 the mortgage-backed securities you purchased
23 in 2006 and 2007, right?

24 MR. DeLANGE: Object to the form
25 of the question.

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2 discussion was held.)

3 (Plaintiff's Exhibit 22, document
4 bearing Bates label DEX_JPM_00618988
5 through '221, marked for
6 identification, as of this date.)

7 THE VIDEOGRAPHER: The time is
8 4:38 p.m. we're on the record.

9 Q. Mr. Peterson, I'm handing you a
10 document that has been marked as Exhibit 22
11 bearing Bates stamp DEX_JPM_00618988 through
12 '619221.

13 Do you recognize Exhibit 22?

14 A. Yes.

15 Q. What is Exhibit 22?

16 A. Pledge and Administration
17 Agreement. It governs the many aspects of the
18 administration of the financial products
19 business after the closing of the sale of the
20 FSA insurance business to Assured and the
21 separation of the FP business from FSA.

22 Q. And you see on the upper right-hand
23 corner that it says "execution version"?

24 A. Yes.

25 Q. Do you believe this to be the final

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2 version of that agreement?

3 A. It is the final version. There was
4 a, I believe, minor amendment at closing, like
5 I referred to for other documents, very minor.
6 And then there was a second amendment in, I
7 believe, February 2010 of half a dozen
8 provisions.

9 Q. Is this the document you referred
10 to earlier that you testified transferred
11 FSAM's assets to the collateral agent, as that
12 term is used in the Put Agreement?

13 A. This document sets forth the grant,
14 among other things, the grant by both FSAM and
15 the GIC issuers of all of their assets to the
16 collateral agent as defined in this document.

17 Q. Can you -- can you show me the
18 provision that does that?

19 A. Section 2.1B is the grant by the
20 GIC issuers of security interest to the
21 collateral agent of all of their assets.

22 Section 2.1D is the grant by FSAM
23 of security interests to the collateral agent
24 and all of its assets.

25 Q. And in your last answer, you use

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2 the phrase "grant of security interest,"
3 correct?

4 A. Yes.

5 Q. What's a security interest?

6 A. Security interest is a right under
7 the uniform commercial code in certain assets
8 that is granted by a pledgor to a security
9 party. In this instance, the collateral agent
10 was serving as the secured party for ultimate
11 beneficiaries of the pledge in that the
12 security interest required that assets cash
13 had to be applied in the confines of this
14 Pledge and Administration Agreement.

15 Q. A grant of a security interest is
16 different from an assignment, correct?

17 MR. DeLANGE: Object to the form
18 the question. Calls for a legal
19 conclusion. Beyond the scope.

20 You can answer.

21 A. Under the uniform commercial code,
22 they're actually treated the same, which is
23 how many of these assets were pledged in order
24 to have the security interest obtain a certain
25 standard under Article 8 and Article 9 of the

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2 ECC.

3 Q. Do you know whether the grant of a
4 security interest is the same as an assignment
5 under New York common law as it relates to
6 whether a claim of fraud can transfer from one
7 party to the other?

8 MR. DeLANGE: Object to the form
9 of the question; calls for a legal
10 conclusion. Beyond the scope.

11 You can answer.

12 A. That, I don't know the answer to.

13 Q. You can put that agreement to the
14 side.

15 The Complaint in this litigation
16 references a number of confidential witnesses.
17 You understand that?

18 A. Yes, yes.

19 Q. And topic 17 of the 30(b)(6)
20 deposition notice relates to those
21 confidential witnesses identified in the
22 Complaint?

23 A. Yes.

24 Q. Without revealing any privileged
25 communication or any work undertaken by

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2 Counsel, how did Dexia find the confidential
3 witnesses referred to in the Complaint?

4 MR. DeLANGE: I'm going to object
5 and just interpose the objection of
6 attorney/client privilege, attorney
7 work product and instruct him not to
8 answer anything that would reveal any
9 work product. I know your question
10 said that, but I want the formal
11 objection.

12 A. I am aware that the Complaint lists
13 confidential witnesses. I'm aware that the
14 names of the confidential witnesses have been
15 identified to Defendants. Dexia retained
16 Counsel to conduct an investigation. And my
17 understanding is the confidential witnesses
18 were identified pursuant to that investigation
19 by Dexia's Counsel.

20 Q. Yes or no, did Dexia engage a
21 private investigator?

22 A. No.

23 Q. Has any confidential witnesses
24 provided Dexia with a writing of any kind?

25 MR. DeLANGE: Object to the form

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2 Holdings, Inc., Dexia Credit Local or Dexia
3 SA.

4 Q. So let me just make sure I
5 understand. You think Exhibit A refers to
6 Dexia's purchase price?

7 A. FSAM's purchase price.

8 Q. My question, and the question we're
9 talking about are the other entities, not
10 FSAM, the Dexia entities. What damages are
11 they claiming?

12 MR. DeLANGE: Object to the form
13 of the question. Asked and halfway
14 answered before. He was interrupted.

15 A. FSAM's damages, as previously
16 stated, difference between purchase price paid
17 on the purchase date and the true value of the
18 certificates on the purchase date.

19 Other Plaintiffs suffered losses
20 pursuant to their reimbursement and guarantees
21 arising from the sales of certificates
22 identified on Exhibit A.

23 Q. What losses related to
24 reimbursements and guarantees have they
25 suffered?

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2 A. The RMBS positions, when they were
3 called from FSAM, required that a certain call
4 settlement amount be paid by DCL New York to
5 FSAM, which was equivalent to the outstanding
6 principal amount of the position accrued
7 interest. The principal interest and
8 write-down had not been paid.

9 In the reimbursement arrangements,
10 Dexia Holdings, Inc. was obligated to
11 reimburse DCL New York for the difference
12 between the call settlement amount and the
13 sale proceeds for a specific call option to
14 the extent that the net worth of Dexia
15 Holdings, Inc. would be become negative
16 pursuant to that reimbursement obligation then
17 the Dexia Holdings, Inc.'s, parents entities,
18 Dexia Credit Local or Dexia SA had agreed to
19 provide Dexia Holdings, Inc. with the funds
20 necessary for it to make the reimbursement to
21 DCL New York branch as describe3d in
22 difference between the cost settlement amount
23 and the sale proceeds.

24 Q. Now, what determined the amount of
25 the call settlement amount?

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2 A. The Guarantee Put Contract.

3 Q. It was a contractual obligation to
4 purchase at that price, right?

5 MR. DeLANGE: Objection to the
6 form of the question.

7 A. It was a contractual obligation to
8 pay the call settlement amount upon the
9 exercise of a call option.

10 Q. So, what you're saying is Dexia's
11 -- the Dexia entities claimed damages arise
12 from the fact that it paid an amount it
13 contractually agreed to pay?

14 MR. DeLANGE: Object to the form
15 of the question.

16 A. No, the Dexia Plaintiffs did not
17 pay the call settlement amount. Dexia Credit
18 Local New York branch paid the settlement
19 amount. The difference between the call
20 settlement amount and the sale proceeds was
21 then born by different affiliates with totally
22 other affiliates within the Dexia SA family
23 pursuant to a different intercompany
24 arrangement.

25 Q. Pursuant to a different

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2 intercompany arrangement that each of those
3 entities voluntarily agreed to, correct?

4 MR. DeLANGE: Object to the form
5 of the question.

6 A. They entered into that arrangement.
7 I don't believe they were compelled by any law
8 or other contractor to enter into that
9 arrangement.

10 Q. No one held a gun to their head?

11 A. Not to my knowledge.

12 Q. Now, by virtue of the put and the
13 calls and the various monthly distributions
14 we've been talking about all day today, FSAM
15 received its purchase price back, correct?

16 MR. DeLANGE: Objection to the
17 form of the question. Misstates
18 testimony.

19 A. It received the amounts to which it
20 was entitled pursuant to put claims. The call
21 settlement amount. It did not receive
22 something equivalent to the damages that were
23 the difference between the amount it paid on
24 the purchase date and the true value of the
25 positions on that original purchase date.

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2 Q. No, I understand, but I just want
3 to make clear, though, that with respect to
4 the price it actually paid, not what
5 Plaintiffs think it should have paid, but what
6 it actually paid, it received that purchase
7 price back by virtue of its puts and calls and
8 the monthly distributions that we've been
9 talking about in the various agreements?

10 MR. DeLANGE: Object to the form
11 of the question. And misstates the
12 testimony.

13 A. I would not say it received its
14 purchase price. It received the put claim
15 amount and the call settlement amounts.

16 Q. And those amounts equalled, in
17 every instance, the purchase price that FSAM
18 paid for the RMBS?

19 MR. DeLANGE: Object to the form
20 of the question.

21 A. No.

22 Q. Why not?

23 A. Put claims for intra shortfalls or
24 principal shortfalls are not equal to the
25 purchase price of the asset.

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2 Q. But the calls that were executed
3 after those put claims were, correct?

4 MR. DeLANGE: Object to the form.

5 A. No.

6 Q. Why not?

7 A. There could have been interest
8 payments and principal payments that could
9 have changed the -- could have been a
10 reduction of the principal amount of the
11 position below the purchase price paid by FSAM
12 for that position on the purchase date.

13 So, the call settlement amount
14 would have been the then outstanding principal
15 amount, plus the other elements we discussed.

16 Q. But FSAM would have received the
17 total purchase price either from Dexia or from
18 other sources, correct? One way or the other,
19 it received its total purchase price back for
20 all of these assets?

21 A. As required in the entire
22 structure, the purpose was to try to ensure
23 that FSAM had sufficient assets to discharge
24 to get liability for the GIC affiliates and
25 through the guaranteed arrangement from the

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2 assured transaction documented in the Put
3 Contracts and the sovereign guarantee, FSAM
4 ultimately received amounts that were equal to
5 the principal amounts of the assets from and
6 after the date of those contracts in July 1st,
7 2009. It did not -- it was not compensated
8 for any losses it may have suffered prior to
9 that point.

10 MR. EARNHARDT: Let's take a short
11 break.

12 THE VIDEOGRAPHER: The time is
13 5:06 p.m. We're off the record.

14 (Whereupon, a short break was
15 held.)

16 (Plaintiff's Exhibit 24, Master
17 Note issued by FSA Asset Management to
18 FSA Capital Management Services LLC
19 effective beginning October 29, 2001,
20 marked for identification, as of this
21 date.)

22 (Plaintiff's Exhibit 25, Master
23 Repurchase Agreement between FSA Asset
24 Management LLC and FSA Capital
25 Management Services LLC, marked for

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2 identification, as of this date.)

3 (Plaintiff's Exhibit 26, document

4 bearing Bates label DEX_JPM_00618977

5 through '987, marked for

6 identification, as of this date.)

7 (Plaintiff's Exhibit 27, Insurance

8 and Indemnity Agreement dated

9 October 29, 2001 between FSA, Inc. and

10 FSA Capital Management Services LLC,

11 marked for identification, as of this

12 date.)

13 (Plaintiff's Exhibit 28, Amended

14 and Restated Insurance and Indemnity

15 Agreement as of October 21st, 2008

16 between FSA, Inc. and FSAM, marked for

17 identification, as of this date.)

18 (Plaintiff's Exhibit 29,

19 Reimbursement Agreement dated

20 December 31, 2007, marked for

21 identification, as of this date.)

22 (Plaintiff's Exhibit 30, first

23 iteration of an Intercompany Put and

24 Guarantee Fee Agreement, dated

25 September 30, 2009, marked for